

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
4

5 In re:

6 Acacia Media Technologies Corp.
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NO. C 05-01114 JW

NO. M 05-01665 JW

[PROPOSED] JUDGMENT

10
11 **WHEREAS** the Court issued a [Corrected] Order Granting Defendants'
12 Motions for Summary Judgment ("Order"), (D.I. [350] _____), holding all of the
13 asserted claims invalid as being indefinite pursuant to 35 U.S.C. § 112, ¶ 2;

14 **WHEREAS** the Court has issued multiple orders construing terms and phrases
15 contained in the asserted claims of the patents-in-suit, (*see, e.g.*, D.I. 119, 216, 220,
16 259, 266, *see also* D.I. 124 from 02-CV-01165-JW-MLG);

17 **WHEREAS**, for the reasons set forth in the aforementioned Order, all of the
18 claims asserted by Plaintiff Acacia Media Technologies Corp. ("Acacia") against the
19 remaining defendants in the MDL proceeding, including Echostar Satellite LLC,
20 Echostar Technologies Corp., DIRECTV Group, Inc., Time Warner Cable Inc., CSC
21 Holdings, Inc., Hospitality Network, Inc., Cable America Corp., Comcast Cable
22 Communications LLC, Coxcom Inc., Insight Communications Company, Inc., Charter
23 Communications, Inc. (solely to the extent authorized by the Bankruptcy Court),
24 Armstrong Group, Wide Open West LLC, Block Communications Inc., East Cleveland
25 Cable TV and Communications LLC, Massillon Cable TV Inc., NPG Cable Inc., Mid-
26 Continent Media, Inc., US Cable Holdings LP, Sjoberg's Cablevision, Inc., Savage
27 Communications Inc., Loretel Cablevision, Cannon Valley Communications, Inc.,
28 Arvig Communication Systems, Cable One, Inc., Mediacom Communications

1 Corporation, Bresnan Communications, Cequel III Communications I, LLC (dba
2 Cebriidge Connections), Game Link Inc., ACMP LLC, Cybernet Ventures Inc., Global
3 AVS Inc., National A-1 Advertising Inc., AEBN Inc., Ademia Multimedia LLC,
4 Audio Communications Inc., Cyber Trend Inc., Innovative Ideas International, Adult
5 Revenue Service, Lightspeed Media Group Inc., New Destiny Internet Group LLC, VS
6 Media Inc., Offendale Commercial Limited BV, AskCS.com, Inc., and International
7 Web Innovations Inc. (collectively, “Defendants”), have now been adjudicated;

8 **WHEREAS** the Court requested in the aforementioned Order that the parties
9 submit a joint Proposed Judgment; and

10 **WHEREAS**, in light of the foregoing and for the reasons set forth in the
11 aforementioned Order, entry of judgment is warranted in favor of all Defendants with
12 respect to Acacia’s claims for relief.

13 **THE COURT HEREBY FINDS THAT** there is no just reason for delay of
14 entry of final judgment in favor of Defendants and against Acacia.

15 **THEREFORE, IT IS HEREBY ORDERED** that

16 (1) Judgment is granted to Defendants on their counterclaims of invalidity
17 under 35 U.S.C. § 112, ¶ 2 as to U.S. Patent Nos. 5,132,992 (“’992 patent”), 5,550,863
18 (“’863 patent”), 6,002,720 (“’720 patent”), and 6,144,702 (“’702 patent”) for the
19 reasons set forth in the aforementioned Order; judgment is granted to Defendants on
20 Acacia’s claims for infringement, and on Defendants’ counterclaims for a declaration
21 of non-infringement, of the ‘992 patent, the ‘863 patent, the ‘720 patent, and the ‘702
22 patent for the reasons set forth in the aforementioned Order, and, accordingly Acacia’s
23 claims are dismissed on the merits; judgment is granted to Defendants on Acacia’s
24 claims for infringement, and on Defendants’ counterclaims for a declaration of non-
25 infringement, of U.S. Patent No. 5,253,275 (“’275 patent”) because Acacia has
26 withdrawn all asserted claims of the ‘275 patent; Acacia’s state law claims, and
27 Defendants’ remaining counterclaims, are hereby dismissed without prejudice.
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1 (2) **FINAL JUDGMENT** is hereby entered in favor of Defendants and
2 against Acacia;

3 (3) Defendants are the prevailing parties and each shall be entitled to be
4 awarded its costs of suit.

5 Defendants' Proposal:

6 [(4) The deadline for Defendants to move for attorneys' fees pursuant to
7 Federal Rule of Civil Procedure 54(d)(2) and 35 U.S.C. § 285 is hereby extended to
8 sixty days after the final resolution of any appeal of this Judgment. Depending on the
9 nature of the resolution, or other factors, the Court may adjust this date again in the
10 future.]

11 Acacia's Proposal:

12 Defendants' proposed Paragraph 4 should not be included. Any further motions
13 should be brought within the time prescribed by the Federal Rules of Civil Procedure.

14 **SO ORDERED.**

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16 Dated: _____

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18 HON. JAMES WARE
19 UNITED STATES DISTRICT JUDGE
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